

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT APPLICATION EXAMINING OPERATIONS

Applicants: Collins et al. Group Art Unit: 3751
Serial No.: Examiner: PHILLIPS, CHARLES E
Filed: concurrently herewith
Title: Alcove Whirlpool Seat Spa System

INFORMATION DISCLOSURE STATEMENT
IN ACCORDANCE WITH 37 CFR §1.98

Law Office of Karen Dana Oster, LLC
PMB 1020
15450 SW Boones Ferry Rd. #9
Lake Oswego, OR 97035
August 22, 2003

Mail Stop PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant submits herewith copies of patents of which he is aware and which he desires to have considered by the Patent Office in accordance with 37 CFR §1.97. In accordance with 37 CFR §1.97(b)(1), this Information Disclosure Statement is being submitted together with the filing of the above-identified application.

In accordance with 37 CFR §1.97(h), the filing of this Information Disclosure Statement will not be regarded as an admission that any patent or patents, or other art referred to herein is, or is considered to be, material to patentability under 37 CFR §1.56(b) unless specifically designated as such.

A list of the patents and other references are set forth on the attached pages of Form PTO/SB/08. Based on the PTO's waiver of the requirement under 37 CFR 1.98 (a)(2)(i) for submitting a copy of each cited U.S. patent and each U.S. patent application publication applicants are not submitting copies of such references. Applicants submit copies of all foreign patent documents and non-patent literature of which they are aware in accordance with 37 CFR 1.98(a)(2).

Applicants believe that the attached color Master Spas' brochure (including the enlarged LSX embodiment) does not constitute prior art and, in fact, was copied from applicants' invention. The attached color Master Spas' brochure was obtained at a recent trade show (March 1, 2003). There is no date on the brochure, but applicants believe that it shows a product that infringes applicants' claims. One reason for this belief is applicants' knowledge of the Master Spas' product line. Another reason for this belief is a review of Master Spas' web site using the Internet Archive Wayback Machine. The December 4, 2000 page showing the Legend series does not have model numbers that include the Xtreme Therapy Seat. Similarly, the February 3, 2001 page showing the Legend series, although it includes new models, does not have model numbers that include the Xtreme Therapy Seat. In fact, none of the pages through the May 17, 2001 page show any models with the Xtreme Therapy Seat. The first picture we found of an embodiment with an Xtreme Therapy Seat is in the July 20, 2001 page, well after applicants' priority date of October 25, 2000.

Several of the references submitted herewith were provided to applicants in response to communications with a competitor. The competitor forwarded these documents on September 10, 2002. The competitor claimed that the Freedom Spas "Freedom from Stress Freedom from Pain" brochure was published around 1988. The competitor claimed that the ThermoSpas, "Designer Series" brochure was published around 1993-1994. The competitor claimed that the ThermoSpas, "Wholesale Pricing-Designer Series" price list was published around 1993-1994.

The person making this statement is the attorney who signs below on the basis of the information supplied by the inventors and the information in the file.

Please charge Deposit Account No. 50-2115 for any additional fees which may be required.

Respectfully submitted,



Karen Dana Oster
Reg. No. 37,621
Of Attorneys of Record
Tel: (503) 810-2560

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)		Complete if Known													
Sheet <u>1</u> of <u>4</u>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Application Number</td> <td style="width: 50%;"></td> </tr> <tr> <td>Filing Date</td> <td>08/22/2003</td> </tr> <tr> <td>First Named Inventor</td> <td>Collins</td> </tr> <tr> <td>Art Unit</td> <td>3751</td> </tr> <tr> <td>Examiner Name</td> <td>Phillips, Charles E.</td> </tr> <tr> <td>Attorney Docket Number</td> <td>Marq:Alcove2</td> </tr> </table>		Application Number		Filing Date	08/22/2003	First Named Inventor	Collins	Art Unit	3751	Examiner Name	Phillips, Charles E.	Attorney Docket Number	Marq:Alcove2
Application Number															
Filing Date	08/22/2003														
First Named Inventor	Collins														
Art Unit	3751														
Examiner Name	Phillips, Charles E.														
Attorney Docket Number	Marq:Alcove2														

U. S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
		US- 5333322A	08-02-1994	Weir	
		US- 5228148A	07-20-1993	Weir	
		US- 5682626A	11-04-1997	Banks Jr. et al.	
		US- 5172433A	12-22-1992	Lake	
		US- 4780916	11-02-1988	Sutton	
		US- 3040335	06-02-1962	Gellman	
		US- 5,682,625	11-04-1997	Leaverton et al.	
		US- Des 405,186	02-02-1999	Larsen	
		US- Des 431,297	09-26-2000	Larsen et al.	
		US- Des 275,597	09-19-1984	Lax	
		US- Des 318,908	08-06-1991	Reid	
		US- Des 319,094	08-13-1991	Richmond	
		US- Des 321,555	11-12-1991	Dannenberg	
		US- Des 393,056	03-31-1998	Kolada	
		US- Des 395,075	06-09-1998	Kolada	
		US- Des 277,985	03-12-1985	Kingsley	
		US- Des 301,374	05-30-1989	D'Innocente	
		US- Des 305,061	12-12-1989	Pauls et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ Number ⁴ Kind Code ⁵ (if known)				

Examiner Signature	Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 2 of 4

Complete if Known

Application Number	
Filing Date	08/22/2003
First Named Inventor	Collins
Art Unit	3751
Examiner Name	Phillips, Charles E.
Attorney Docket Number	Marq:Alcove2

U. S. PATENT DOCUMENTS

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		Number-Kind Code ² (if known)			
		US- Des 310566	09-11-1990	Jacuzzi	
		US- Des 333,699	03-02-1999	Jacuzzi , et al.	
		US- Des 405,182	02-02-1998	Larsen	
		US- Des 405,185	02-02-1998	Larsen	
		US- Des 433,510	11-07-1999	Jacuzzi	
		US- Des 436,178	01-09-2001	Larsen et al.	
		US- Des 445,904	07-31-2001	Larsen	
		US- Des 446,309	08-07-2001	Bower	
		US- Des 446,310	08-07-2001	Bower	
		US- Des 446,862	08-21-2001	Larsen et al.	
		US- Des 259,510	06-09-1981	Reineman	
		US- Des 294,863	03-27-1998	Kingsley	
		US- 4,953,240	09-04-1990	Gardenier	
		US-			
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Signature

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Substitute for form 1449B/PTO		Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)		Application Number	
		Filing Date	08/22/2003
		First Named Inventor	Collins
		Art Unit	3751
		Examiner Name	Phillips, Charles E.
		Attorney Docket Number	Marq:Alcove2
Sheet	3	of	4

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		Freedom Spas, "Freedom from Stress Freedom from Pain" brochure, At least as early as September 10, 2002.	
		ThermoSpas, "Designer Series" brochure, At least as early as September 10, 2002.	
		ThermoSpas, "Wholesale Pricing-Designer Series" price list, At least as early as September 10, 2002 (with August 1, 1993 effective date listed thereon).	
		Dimension One Spas Brochure, at least as early as Oct., 2000.	
		Down East Spas Brochure "Relax in Stylish Comfort," at least as early as Oct., 2000.	
		Watkins Manufacturing Corporation, Caldera Spas Brochure, "Relax, Recharge and Reconnect," at least as early as Oct., 2000.	
		L.A. Spas Brochure, at least as early as Oct., 2000.	
		Watkins Manufacturing Corporation, Hot Spring Spas Brochure, "Relaxation Has Found Its Ultimate Expression," at least as early as Oct., 2000.	
		Dimension One Spas, Dimension One Spas Brochure, at least as early as Oct., 2000.	
		Dimension One Spas, "@Home Hot Tubs" Brochure, at least as early as Oct., 2000.	

Examiner Signature		Date Considered	
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¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 120 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

Sheet	4	of	4
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Application Number

Filing Date	08/22/2003
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First Named Inventor	Collins
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Art Unit	3751
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Examiner Name	Phillips, Charles E.
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Attorney Docket Number	Marq:Alcove2
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Examiner
Initials*Cite
No.¹ τ^2

Watkins Manufacturing Corporation, Solana "Serenity made simple" Brochure, at least as early as Oct., 2000.

MASTER SPAS Brochure, "Jet Away," at least as early as March 1, 2003, 5 pages (including an enlarged view of the LSX spa), Master Spas, Fort Wayne, IN.

Examiner
Signature

Date Considered

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

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